

REFERENCE TITLE: property tax; residential rental property

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1333

Introduced by
Senators Aguirre, Mitchell: Aboud, Arzberger, Brotherton, Cannell, Garcia,
Hale, Rios, Soltero

AN ACT

AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.09; AMENDING SECTIONS 33-1902, 42-11053, 42-12052, 42-13002 AND 42-13051, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO PROPERTY TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 11, chapter 2, article 4, Arizona Revised Statutes,
3 is amended by adding section 11-269.09, to read:

4 11-269.09. Residential rental identification fund

5 A. BEGINNING FROM AND AFTER DECEMBER 31, 2005, A RESIDENTIAL RENTAL
6 IDENTIFICATION FUND SHALL BE ESTABLISHED IN EACH COUNTY, CONSISTING OF MONIES
7 RECEIVED PURSUANT TO SECTION 42-12052, SUBSECTION E, PARAGRAPH 3.

8 B. THE BOARD OF SUPERVISORS SHALL ADMINISTER THE FUND.

9 C. IN COOPERATION WITH THE COUNTY ASSESSOR, THE BOARD SHALL USE THE
10 MONIES IN THE FUND ONLY TO DEFRAY THE ASSESSOR'S COSTS OF:

11 1. INVESTIGATING LEASED OR RENTED RESIDENTIAL PROPERTY THAT HAS BEEN
12 ERRONEOUSLY CLASSIFIED FOR TAX PURPOSES AS CLASS THREE PROPERTY UNDER SECTION
13 42-12003.

14 2. COMPLYING WITH SECTION 42-12052.

15 Sec. 2. Section 33-1902, Arizona Revised Statutes, is amended to read:

16 33-1902. Residential rental property; recording with the
17 assessor; agent designation; civil penalty

18 A. An owner of residential rental property shall maintain with the
19 assessor in the county where the property is located information required by
20 this section in a manner to be determined by the assessor. The owner shall
21 update any information required by this section within ten days after a
22 change in the information occurs. The following information shall be
23 maintained:

24 1. The name, address and telephone number of the property owner.

25 2. If the property is owned by a corporation, limited liability
26 company, partnership, limited partnership, trust or real estate investment
27 trust, the name, address and telephone number of any of the following:

28 (a) For a corporation, a corporate officer.

29 (b) For a partnership, a general partner.

30 (c) For a limited liability company, the managing or administrative
31 member.

32 (d) For a limited partnership, a general partner.

33 (e) For a trust, a trustee.

34 (f) For a real estate investment trust, a general partner or an
35 officer.

36 3. The street address and parcel number of the property.

37 4. The year the building was built.

38 B. An owner of residential rental property who lives outside this
39 state shall designate and record with the assessor a statutory agent who
40 lives in this state and who will accept legal service on behalf of the owner.
41 The owner shall designate the agent in a manner to be determined by the
42 assessor. The information shall include the name, address and telephone
43 number of the agent.

44 C. Residential rental property shall not be occupied if the
45 information required by this section is not on file with the county
46 assessor. If the owner has not filed the information required by this

1 section with the county assessor and the residential rental property is
 2 occupied by a tenant and the tenant chooses to terminate the tenancy, the
 3 tenant shall deliver to the landlord, owner, ~~or~~ managing agent OR STATUTORY
 4 AGENT of the property a written ten day notice to comply with this section.
 5 The notice shall be delivered by certified mail, return receipt requested, or
 6 by hand delivery. If the owner does not comply with this section within ten
 7 days after receipt of the notice, the tenant may terminate the rental
 8 agreement and the landlord shall return all prepaid rent to the tenant.
 9 Security deposits shall be returned in accordance with section 33-1321,
 10 subsection D. The landlord shall return those monies by certified mail,
 11 return receipt requested, or by hand delivery to the tenant within ten days
 12 after the termination of the rental agreement. This subsection applies to
 13 any existing lease and to any new lease after ~~the effective date of this~~
 14 ~~amendment to this section~~ AUGUST 25, 2004. Notwithstanding this subsection,
 15 an owner is in compliance with this subsection only if the owner had filed
 16 the information required by subsection A of this section with the county
 17 assessor.

18 D. BEFORE LISTING RESIDENTIAL RENTAL PROPERTY FOR RENT OR LEASE, A
 19 MANAGING AGENT MUST VERIFY THAT THE INFORMATION REQUIRED BY SUBSECTION A OF
 20 THIS SECTION HAS BEEN SUBMITTED TO THE COUNTY ASSESSOR. A MANAGING AGENT
 21 THAT FAILS OR REFUSES TO COMPLY WITH THIS SUBSECTION AND LISTS THE PROPERTY
 22 FOR RENT IS LIABLE FOR THE CIVIL PENALTY IMPOSED BY SUBSECTION F OF THIS
 23 SECTION.

24 ~~D.~~ E. All records, files and documents that are required by this
 25 section are public records.

26 ~~E.~~ F. A person who fails to comply with this section shall be
 27 assessed a civil penalty of one thousand dollars FOR EACH VIOLATION, plus an
 28 additional one hundred dollars for each month after the date of the original
 29 violation until compliance occurs. The court shall not suspend any portion
 30 of the civil penalty provided by this subsection.

31 ~~F.~~ G. Notwithstanding subsection ~~E~~ F of this section, if a person
 32 complies within ten days after receiving the complaint that notices the
 33 violation, the court shall dismiss the complaint and shall not impose a civil
 34 penalty.

35 ~~G.~~ H. In carrying out this section the county assessor shall have
 36 immunity as provided in section 12-820.01.

37 Sec. 3. Section 42-11053, Arizona Revised Statutes, is amended to
 38 read:

39 42-11053. Investigating property assessments

40 ~~A. The department shall investigate property valuations and any~~
 41 ~~matters relating to property taxes and shall require the production of any~~
 42 ~~private or public record relating to those valuations or property taxes.~~

43 A. THE DEPARTMENT SHALL:

44 1. CONDUCT PERIODIC REVIEWS OF PROPERTY VALUATIONS AND CLASSIFICATIONS
 45 TO DETERMINE THE ADEQUACY OF THE PROCEDURES AND PRACTICES EMPLOYED BY THE
 46 COUNTY ASSESSORS IN ASSESSING PROPERTY TO ENSURE THAT ALL PROPERTIES ARE

1 UNIFORMLY VALUED FOR PROPERTY TAX PURPOSES. THE DEPARTMENT SHALL HAVE ACCESS
2 TO AND MAY COPY ANY RECORDS MAINTAINED BY THE ASSESSORS.

3 2. PREPARE FOR EACH ASSESSOR A PRELIMINARY WRITTEN REPORT OF FINDINGS
4 AND RECOMMENDATIONS AND, AFTER CONSIDERING COMMENTS FROM THE ASSESSOR, SEND A
5 FINAL REPORT INCLUDING FINDINGS AND RECOMMENDATIONS TO THE ASSESSOR AND BOARD
6 OF SUPERVISORS.

7 B. The director or the director's agent may:

8 1. Enter on and examine any property in this state to determine its
9 full cash value. If the owner or possessor of property refuses entrance to
10 the director or the director's agent, the director may estimate the valuation
11 of the property.

12 2. Require any officer whose duties relate to assessing or collecting
13 taxes to report to the director at the time and in the manner that the
14 director prescribes.

15 C. THE DEPARTMENT MAY:

16 1. OBTAIN INFORMATION FROM MUNICIPAL TAXING AUTHORITIES IN RELATION TO
17 PROPERLY CLASSIFYING PROPERTY FOR TAX PURPOSES.

18 2. PROVIDE INFORMATION TO MUNICIPAL TAXING AUTHORITIES PURSUANT TO
19 SECTION 42-2003.

20 3. OBTAIN INFORMATION FROM UTILITY COMPANIES AND OTHER RESIDENTIAL
21 SERVICE PROVIDERS IN RELATION TO RENTAL PROPERTIES.

22 Sec. 4. Section 42-12052, Arizona Revised Statutes, is amended to
23 read:

24 42-12052. Review and verification of class three property;
25 notice to owner; penalty; appeals

26 A. Each county assessor shall review assessment information AND
27 INFORMATION REQUIRED PURSUANT TO SECTION 33-1902, on a REGULAR AND continuing
28 basis, to ensure proper classification of residential dwellings.

29 B. If the assessor has reason to believe that a parcel of property
30 that is classified as class three pursuant to section 42-12003 is being
31 rented, the assessor shall notify the owner, in a form prescribed by the
32 department, and request that the owner respond as to whether the property is
33 occupied by the owner or is used as a rental property. ~~If the owner fails to~~
34 ~~respond to the assessor within thirty days after the notice is mailed, the~~
35 ~~assessor shall mail the owner a final notice requesting that the owner~~
36 ~~provide information as to whether or not the property is occupied by the~~
37 ~~owner or used as a rental property.~~

38 ~~C. If the owner fails to respond to the assessor within fifteen days~~
39 ~~after the final notice is mailed, the assessor shall:~~

40 ~~1. Reclassify the property as class four.~~

41 ~~2. Notify the county treasurer who shall assess a penalty against the~~
42 ~~property equal to twice the amount of the property taxes that would have been~~
43 ~~levied against the property if the property had been classified as class four~~
44 ~~pursuant to section 42-12004 in the preceding tax year.~~

45 ~~D. The owner of the property shall pay a penalty under subsection C,~~
46 ~~paragraph 2 of this section to the county treasurer within thirty days after~~

~~the notice of the penalty is mailed. The owner may appeal the penalty to the county board of supervisors within the time required for payment. If the owner proves to the board's satisfaction that the property is occupied by the owner, the board shall waive the penalty, and the property shall be listed as class three pursuant to section 42-12003. Until paid or waived, the penalty constitutes a lien against the property.~~

~~E. In addition to other appeal procedures provided by law, the owner of property that is reclassified as class four under subsection C, paragraph 1 of this section may appeal the reclassification to the county board of supervisors within thirty days after the notice of classification is mailed. If the owner proves to the board's satisfaction that the owner occupies the property, the board shall order the property to be reclassified as class three property pursuant to section 42-12003.~~

C. NOTWITHSTANDING SECTION 42-16252, IF THE OWNER RESPONDS TO THE ASSESSOR WITHIN THIRTY DAYS AFTER THE INITIAL NOTICE IS MAILED AND AFFIRMS THAT THE PROPERTY IS ERRONEOUSLY CLASSIFIED AS CLASS THREE, THE ASSESSOR SHALL IMMEDIATELY CHANGE THE CLASSIFICATION OF THE PROPERTY AND CORRECT THE TAX ROLL FOR THE CURRENT TAX YEAR AND THE NEXT TAX YEAR, WITHOUT PENALTY.

D. IF THE OWNER FAILS TO RESPOND TO THE ASSESSOR WITHIN THIRTY DAYS AFTER THE INITIAL NOTICE IS MAILED, THE ASSESSOR SHALL MAIL THE OWNER A FINAL NOTICE REQUESTING THAT THE OWNER PROVIDE INFORMATION AS TO WHETHER OR NOT THE PROPERTY IS OCCUPIED BY THE OWNER OR IS USED AS A RENTAL PROPERTY.

E. IF THE OWNER RESPONDS TO THE ASSESSOR MORE THAN THIRTY DAYS AFTER THE INITIAL NOTICE IS MAILED AND AFFIRMS THAT THE PROPERTY IS ERRONEOUSLY CLASSIFIED AS CLASS THREE, OR IF THE OWNER FAILS TO RESPOND TO THE ASSESSOR WITHIN FIFTEEN DAYS AFTER THE FINAL NOTICE IS MAILED, THE ASSESSOR SHALL:

1. MAIL A NOTICE OF RECLASSIFICATION TO THE OWNER.
2. CORRECT THE TAX ROLL TO RECLASSIFY THE PROPERTY FOR THE CURRENT TAX YEAR AND THE NEXT TAX YEAR.
3. NOTIFY THE COUNTY TREASURER WHO SHALL ASSESS A CIVIL PENALTY AGAINST THE PROPERTY EQUAL TO THREE TIMES THE AMOUNT OF ADDITIONAL STATE AID PAID TO EACH SCHOOL DISTRICT WITH RESPECT TO THE PROPERTY PURSUANT TO SECTION 15-972 IN THE PRECEDING TAX YEAR.

F. THE OWNER OF THE PROPERTY MUST PAY THE PENALTY UNDER SUBSECTION E, PARAGRAPH 3 OF THIS SECTION TO THE COUNTY TREASURER WITHIN THIRTY DAYS AFTER THE NOTICE OF THE PENALTY IS MAILED. IF THE PENALTY IS NOT TIMELY PAID TO THE TREASURER, THE PENALTY IS SUBJECT TO THE SAME PENALTIES AND INTEREST, AND SHALL BE COLLECTED BY THE COUNTY TREASURER IN THE SAME MANNER, AS IF THE PENALTY WERE A TAX LEVIED AGAINST THE PROPERTY. UNTIL PAID, OR WAIVED UNDER SUBSECTION G OF THIS SECTION, THE PENALTY CONSTITUTES A LIEN AGAINST THE PROPERTY.

G. THE OWNER MAY APPEAL THE PENALTY AND THE RECLASSIFICATION OF THE PROPERTY TO THE COUNTY BOARD OF SUPERVISORS WITHIN THE TIME REQUIRED FOR PAYMENT. THE BOARD OF SUPERVISORS MAY APPOINT A HEARING OFFICER TO REVIEW APPEALS FILED UNDER THIS SECTION. IF THE OWNER PROVES TO THE BOARD'S SATISFACTION THAT THE PROPERTY IS ELIGIBLE TO BE CLASSIFIED AS CLASS THREE,

THE BOARD SHALL INSTRUCT THE TREASURER TO WAIVE THE PENALTY AND NOTIFY THE ASSESSOR THAT THE PROPERTY SHALL BE CLASSIFIED AS CLASS THREE PURSUANT TO SECTION 42-12003. IF THE BOARD FINDS THAT THE PROPERTY IS PROPERLY RECLASSIFIED, THE PENALTY SHALL NOT BE WAIVED.

~~F.~~ H. The county treasurer shall ~~deposit~~ ALLOCATE all revenue received from penalties assessed under this section ~~in the county general fund.~~ AS FOLLOWS:

1. REMIT TO THE STATE TREASURER FOR CREDIT TO THE STATE GENERAL FUND THE AMOUNT OF ADDITIONAL STATE AID PAID TO EACH SCHOOL DISTRICT WITH RESPECT TO THE PROPERTY PURSUANT TO SECTION 15-972 IN THE PRECEDING TAX YEAR.

2. DEPOSIT THE REMAINDER OF THE REVENUES TO THE RESIDENTIAL RENTAL IDENTIFICATION FUND ESTABLISHED PURSUANT TO SECTION 11-269.09.

~~G.~~ I. The department shall prescribe all forms used to notify property owners under this section. The forms shall contain information as to the reclassification of property and the civil penalties that may result if the owner fails to respond to the notice.

Sec. 5. Section 42-13002, Arizona Revised Statutes, is amended to read:

42-13002. Relationship between department and county assessors

A. The department shall:

1. Exercise general supervision over county assessors in administering the property tax laws to ensure that all property is uniformly valued for property tax purposes.

2. REQUIRE THE RECLASSIFICATION OF PROPERTIES IF NECESSARY.

~~2.~~ 3. Prescribe forms to be used by county assessors for:

(a) Listing and valuing property for tax purposes.

(b) Reporting changes in valuations.

(c) Such other purposes as the department may require under this title.

~~3.~~ 4. Assist county assessors:

(a) In maintaining uniform maps and records.

(b) In placing on the rolls the valuations determined under this chapter.

(c) To assure a uniform valuation of all property throughout the state for property tax purposes, including providing the services of department personnel to the assessors. The department may charge to the county the costs of department personnel provided to that county.

B. THE DEPARTMENT MAY REQUIRE INFORMATION FROM THE COUNTY ASSESSOR'S OFFICE TO VERIFY COMPLIANCE WITH THE PROCEDURES PRESCRIBED BY SECTION 42-12052.

~~B.~~ C. The director and county assessors shall meet at the state capitol, or at a place designated by the director, at least twice each year to consider matters relating to property taxation. The traveling expenses of assessors in attending these meetings shall be paid by the respective counties.

1 Sec. 6. Section 42-13051, Arizona Revised Statutes, is amended to
2 read:

3 42-13051. Powers and duties of county assessor

4 A. Not later than December 15 of each year the county assessor shall
5 identify by diligent inquiry and examination all real property in the county
6 that is subject to taxation and that is not otherwise valued by the
7 department as provided by law.

8 B. The assessor shall:

9 1. Determine the names of all persons who own, claim, possess or
10 control the property.

11 2. Determine the full cash value of all such property as of January 1
12 of the next year by using the manuals furnished and procedures prescribed by
13 the department.

14 3. List the property with the determined valuation for use on the tax
15 roll.

16 C. THE ASSESSOR OR THE ASSESSOR'S AGENT MAY ENTER ON AND EXAMINE ANY
17 PROPERTY IN THE COUNTY TO DETERMINE ITS VALUATION OR CLASSIFICATION. IF THE
18 OWNER OR POSSESSOR OF PROPERTY REFUSES ENTRY TO THE ASSESSOR OR THE
19 ASSESSOR'S AGENT, THE ASSESSOR MAY ESTIMATE THE VALUATION OF THE PROPERTY.

20 ~~C.~~ D. In identifying property pursuant to this section, the assessor
21 shall use aerial photography, applicable department of revenue records,
22 building permits and other documentary sources and technology.

23 Sec. 7. Appropriation; purpose; exemption

24 A. The sum of \$622,500 is appropriated from the state general fund in
25 fiscal year 2005-2006 to the department of revenue for the purposes of
26 sections 42-11053, 42-12052 and 42-13002, Arizona Revised Statutes, as
27 amended by this act.

28 B. The appropriation made in subsection A of this section is exempt
29 from the provisions of section 35-190, Arizona Revised Statutes, relating to
30 lapsing of appropriations.

31 Sec. 8. Retroactivity

32 Sections 1 through 6 of this act apply retroactively to tax years
33 beginning from and after December 31, 2005.

34 Sec. 9. Emergency

35 This act is an emergency measure that is necessary to preserve the
36 public peace, health or safety and is operative immediately as provided by
37 law.